



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 7233-99
15 June 2000

YNCSW [REDACTED] PERS USN
[REDACTED]
[REDACTED] 8

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. It is noted that the Navy Personnel Command (PERS) has directed removal of your contested evaluation for 1 October 1995 to 31 January 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by PERS dated 20 March, and 7 and 27 April 2000, copies of which are attached. They also considered your rebuttal letter dated 10 June 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. Accordingly, your application for relief beyond that effected by PERS has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



7233 99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
20 March 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: YNC(SW [REDACTED], [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of all documents pertaining to his Detachment for Cause, all documents pertaining to his submarine disqualification, written authorization to wear the enlisted submarine breast insignia, and removal of the following performance evaluations reports from his record:

4 October 1994 to 30 September 1995
20 October 1995 to 25 March 1996
1 October 1995 to 31 January 1996

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the performance evaluations in question to be on file. They are signed by the member acknowledging the contents of each and his right to submit a statement. The member indicated he did desire to submit a statement for the performance evaluation for the period 4 October 1994 to 30 September 1995. The member's statement and endorsement is properly reflected in his record. The member did not desire to submit a statement for the other two performance evaluations.

b. The member requests that all correspondence and reports be removed because his Detachment for Cause (DFC) was unjust, and he was placed in a situation where he had little chance to succeed. On 23 January 1996 the Chief of Naval Personnel approved the DFC, which was properly adjudicated and the information contained in his official record accurately reflects the approved DFC. In reviewing petitions that question the exercise of the reporting senior's evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. For us to recommend relief, the petitioner has to show that either there is no rational support for the reporting senior's action or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion, he must provide evidence to support the claim. I do not believe that YNC(SW)

Bridgewater has done so. The performance evaluation itself represents the opinion of the reporting senior. Nothing provided in the petition shows that the reporting senior acted for illegal or improper purposes or that the report lacked rational support.

c. The performance evaluation for the period 4 October 1994 to 30 September 1995 is procedurally correct and is a valid report. The performance evaluation for the period 1 October 1995 to 31 January 1996 is an invalid report. Per reference (a), Annex D, paragraph D-8.e, a performance report is not to be submitted for Detachment for Cause (DFC). The report clearly states: "This evaluation is submitted up [REDACTED] Detachment for Cause (DFC)". We have removed this performance evaluation and replaced it with a Pers-311 Memo in order to maintain continuity. The performance evaluation for the period 20 October 1995 to 25 March 1996 was prepared by the member's ISIC and is a valid report.

d. The commendatory correspondence and other documentation concerning Chief Bridgewater's performance is noted, however, this material does not show that his performance was incorrectly evaluated in his performance evaluation.

e. A performance evaluation does not have to be consistent with previous or subsequent reports. Each performance evaluation represents the judgment of the reporting senior during a particular period.

f. Enhancement of chances for promotion is not sufficient reason to remove a performance evaluation.

g. The member does not prove the report to be unjust or in error.

3. We recommend the member's record be changed except as noted in paragraph 2.c.

[REDACTED]

Head, Performance
Evaluation Branch



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

7233-99

5420
PERS-832C
7 Apr 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS (BCNR)

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: YNC-BCNR [REDACTED] USN, [REDACTED]

Encl: (1) BCNR File 07233-99
(2) Petitioner's Microfiche Record

1. The petition and naval records of subject petitioner have been reviewed relative to his request for removal of derogatory material.
2. The review reveals that the petitioner was detached for cause by competent authority at the time. Documentation supporting that significant event should remain in the record. The maintenance of those documents is essential to depict the petitioner's character and background, and in conjunction with any other unsatisfactory conduct, to serve as a possible consideration for future administrative action. A presumption of regularity attaches to official records, and the burden of proof is on the petitioner to show documentary evidence that an error has occurred or an injustice suffered. The petitioner provides no such proof. Therefore, favorable action on this petition is not recommended.

[REDACTED]
[REDACTED]
[REDACTED]
Technical Advisor to the
Head, Enlisted Performance
Branch (PERS-832)



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

7233-99

5420
PERS 403FC
27 Apr 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
YNC(SW) [REDACTED] PERS USN [REDACTED]

Ref: (a) MILPERSMAN 1220-040

Encl: (1) BCNR File 07233-99 w/Service Record
(2) COMSUBGRU NINE ltr Ser N102/0236 dtd 5 Feb 96

1. Subject named member has petitioned the Board for Correction of Naval Records (BCNR) for written authorization to wear the Enlisted Submarine Breast Insignia and to utilize the (SS) designator on all future documents and evaluations.

2. After thorough review of available information, PERS-403 submits the following comments:

- The privilege to wear the Enlisted Submarine Breast Insignia was revoked by the same authority (COMSUBGRU 9) that approved his disqualification in submarine duty and the removal of the (SS) designator in enclosure (2).

- There is no provision for allowing an individual to wear the insignia after being disqualified from submarine duty with the exception of physical disqualification.

- Reference (a) states in part, that "other unique circumstances may convince the submarine disqualification authority to leave intact a former submariner's privilege to wear this insignia".

- Furthermore, PERS-403 has determined that there were no unusual circumstances involved in this case. He was disqualified by a competent authority in the "disqualified" category for valid reasons, in that he failed to perform at the level expected of a submarine [REDACTED]. As PERS-403 is the final authority for reinstatement to submarine duty and the entitlement to wear the

